

I. Status of Claims

Claims 1-7 are pending.

Claims 1-6 are amended.

Claim 8 is new.

II. Remarks

On page 2 of the Action, the Examiner objected to the disclosure for informalities. The disclosure has been amended to recite the correct reference numeral of the mechanical switch.

On page 2 of the Action, the Examiner rejected claims 1-7 under 35 U.S.C. §102(a) as being anticipated by D'Antonio et al., U.S. Patent Number 6,634,279.

Claims 1-6 have been amended to reflect an element not disclosed by D'Antonio of a controller being programmed to implement a partial or complete proportional-integral-derivative algorithm for controllably heating liquid in the container for use in producing a beverage.

Applicant asserts that claim 1 is not anticipated by D'Antonio. The temperature modifying element disclosed may be a heating element or a cooling element. D'Antonio does not disclose a cooling element, therefore does not anticipate claim 7.

An anticipating prior art reference should disclose each and every limitation of the claim expressly or inherently. *Akamai Techs. v. Cable & Wireless Internet Servs.*, 344 F.3d 1186, 1192 (Fed. Cir. 2003). To anticipate a claim, a reference must disclose every element of the challenged claim and enable one skilled in the art to make the anticipating subject matter. *PPG Industries, Inc. v. Guardian Industries Corp.*, 75 F.3d 1558, 1566, 37 USPQ2d 1618, 1624 (Fed. Cir. 1996).

Given the amendments presented herein, D'Antonio does not teach each and every limitation of claim 1-7 and its dependent and therefore does not anticipate claims 1-8. In D'Antonio, one switch only is used in the heating of liquid for producing a beverage. The second switch in D'Antonio is used in the warmer to keep the beverage warm once produced. The claims employ two switches to control the heating of water to produce the beverage, not to warm the produced beverage. Applicant requests the Examiner to withdraw this rejection.

VI. Summary

Support for claim amendments can be found throughout the specification and in the drawings as originally filed. No new matter is introduced by these amendments.

A Petition for One Month Extension of time until February 6, 2006 (Monday) is requested along with this timely filed Response. If additional extensions of time are due, the Examiner is authorized to charge the fees necessary to the Barnes & Thornburg LLP deposit account, 12-0913.

No other fees are believed due at this time, however, please charge any additional deficiencies or credit any overpayments to deposit account number 12-0913 with reference to our attorney docket number 27726-99477.

Respectfully submitted,

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